

Senate File 2235

S-5056

1 Amend Senate File 2235 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. NEW SECTION. 237C.1 Definitions.

5 As used in this chapter, unless the context
6 otherwise requires:

7 1. "*Administrator*" means the administrator of that
8 division of the department designated by the director
9 of human services to administer this chapter or the
10 administrator's designee.

11 2. "*Child*" or "*children*" means an individual or
12 individuals under eighteen years of age.

13 3. "*Children's residential facility*" means a
14 private facility designed to serve children who have
15 been voluntarily placed for reasons other than an
16 exclusively recreational activity outside of their
17 home by a parent or legal guardian and who are not
18 under the custody or authority of the department of
19 human services, juvenile court, or another governmental
20 agency, that provides twenty-four hour care, including
21 food, lodging, supervision, education, or other care on
22 a full-time basis by a person other than a relative or
23 guardian of the child, but does not include an entity
24 providing any of the following:

25 a. Care furnished by an individual who receives
26 the child of a personal friend as an occasional and
27 personal guest in the individual's home, free of charge
28 and not as a business.

29 b. Care furnished by an individual with whom a
30 child has been placed for lawful adoption, unless
31 that adoption is not completed within two years after
32 placement.

33 c. Child care furnished by a child care facility as
34 defined in section 237A.1.

35 d. Care furnished in a hospital licensed under

1 chapter 135B or care furnished in a health care
2 facility as defined in section 135C.1.

3 e. Care furnished by a juvenile detention home
4 or juvenile shelter care home approved under section
5 232.142.

6 f. Care furnished by a child foster care facility
7 licensed under chapter 237.

8 g. Care furnished by an institution listed in
9 section 218.1.

10 h. Care furnished by a facility licensed under
11 chapter 125.

12 i. Care furnished by a psychiatric medical
13 institution for children licensed under chapter 135H.

14 4. "Department" means the department of human
15 services.

16 Sec. 2. NEW SECTION. 237C.2 Purpose.

17 It is the policy of this state to provide
18 appropriate protection for children who are separated
19 from the direct personal care of their parents,
20 relatives, or guardians and, therefore, the purpose
21 of this chapter is to provide for the development,
22 establishment, and enforcement of standards relating to
23 the certification of children's residential facilities.

24 Sec. 3. NEW SECTION. 237C.3 Certification
25 standards — consultation with other agencies.

26 1. The department of human services shall consult
27 with the department of education, the department of
28 inspections and appeals, the department of public
29 health, the state fire marshal, and other agencies
30 as determined by the department of human services
31 to establish certification standards for children's
32 residential facilities in accordance with this chapter.

33 2. Standards established by the department under
34 this chapter shall at a minimum address the basic
35 health and educational needs of children; protection

1 of children from mistreatment, abuse, and neglect;
2 background and records checks of persons providing
3 care to children in facilities certified under this
4 chapter; the use of seclusion, restraint, or other
5 restrictive interventions; health; safety; emergency;
6 and the physical premises on which care is provided
7 by a children's residential facility. The background
8 check requirements shall be substantially equivalent to
9 those applied under chapter 237 for a child foster care
10 facility provider.

11 **Sec. 4. NEW SECTION. 237C.4 Rules.**

12 1. Except as otherwise provided in this section,
13 the department shall adopt rules pursuant to chapter
14 17A to administer this chapter.

15 2. A children's residential facility shall be
16 inspected by the state fire marshal or the state fire
17 marshal's designee for compliance with rules relating
18 to fire safety before the department grants or renews
19 a certificate of approval under this chapter. Rules
20 governing fire safety in children's residential
21 facilities shall be promulgated by the state fire
22 marshal pursuant to section 100.1, subsection 5, after
23 consultation with the administrator.

24 3. Rules governing sanitation, water and waste
25 disposal standards for children's residential
26 facilities shall be adopted by the department of public
27 health pursuant to section 135.11, subsection 12, after
28 consultation with the administrator.

29 4. Rules governing educational programs and
30 education services provided by children's residential
31 facilities shall be adopted by the state board of
32 education pursuant to section 282.34.

33 5. In the case of a conflict between rules adopted
34 pursuant to subsections 2 and 3 and local rules, the
35 more stringent requirement applies.

1 Sec. 5. NEW SECTION. 237C.5 Certificate of
2 approval — certification required.

3 A person shall not operate a children's residential
4 facility without a certificate of approval to operate
5 issued by the administrator under this chapter.

6 Sec. 6. NEW SECTION. 237C.6 Certificate
7 application and issuance — denial, suspension, or
8 revocation.

9 1. A person shall apply for a certificate to
10 operate a children's residential facility by completing
11 and submitting to the administrator an application in
12 a form and format approved by the administrator. The
13 administrator shall issue or reissue a certificate
14 of approval if the administrator determines that the
15 applicant is or upon commencing operation will provide
16 children's residential facility services in compliance
17 with this chapter. A certificate of approval is valid
18 for up to one year from the date of issuance for the
19 period determined by the administrator in accordance
20 with administrative rules providing criteria for making
21 the determination.

22 2. The certificate of approval shall state on
23 its face the name of the holder of the certificate,
24 the particular premises for which the certificate is
25 issued, and the number of children who may be cared for
26 by the children's residential facility on the premises
27 at one time under the certificate of occupancy issued
28 by the state fire marshal or the state fire marshal's
29 designee. The certificate of approval shall be posted
30 in a conspicuous place in the children's residential
31 facility.

32 3. The administrator may deny an application for
33 issuance or reissuance of a certificate of approval
34 or suspend or revoke a certificate of approval if
35 the applicant or certificate holder, as applicable,

1 fails to comply with this chapter or the rules adopted
2 pursuant to this chapter or knowingly makes a false
3 statement concerning a material fact or conceals a
4 material fact on the application for the issuance or
5 reissuance of a certificate of approval or in a report
6 regarding operation of the children's residential
7 facility submitted to the administrator. All
8 operations of a children's residential facility shall
9 cease during a period of suspension or revocation. The
10 administrator shall suspend or revoke a certificate
11 of approval of a children's residential facility that
12 fails to comply with section 282.34.

13 Sec. 7. NEW SECTION. **237C.7 Restricted use of**
14 **facility.**

15 A children's residential facility shall operate
16 only in a building or on premises designated in the
17 certificate of approval.

18 Sec. 8. NEW SECTION. **237C.8 Reports and**
19 **inspections.**

20 The administrator may require submission of reports
21 by a certificate of approval holder and shall cause at
22 least one annual unannounced inspection of a children's
23 residential facility to assess compliance with
24 applicable requirements and standards. The inspections
25 shall be conducted by the department of inspections
26 and appeals in addition to initial, renewal, and
27 other inspections that result from complaints or
28 self-reported incidents. The department of inspections
29 and appeals and the department of human services may
30 examine records of a children's residential facility
31 and may inquire into matters concerning the children's
32 residential facility and its employees, volunteers, and
33 subcontractors relating to requirements and standards
34 for children's residential facilities under this
35 chapter.

1 Sec. 9. NEW SECTION. 237C.9 Injunctive relief —
2 civil action.

3 1. A person who establishes, conducts, manages,
4 or operates a children's residential facility without
5 a certificate of approval required pursuant to this
6 chapter, or a children's residential facility with
7 a certificate of approval that is not operating in
8 compliance with rules adopted pursuant to this chapter,
9 may be restrained by temporary or permanent injunction
10 from providing children's residential facility services
11 or from other involvement with child care. The action
12 may be instituted by the state or a county attorney.

13 2. The parent or legal guardian of a child who
14 is placed in a children's residential facility, the
15 state, or the school district in which the children's
16 residential facility is located, may bring a civil
17 action seeking relief from conduct constituting a
18 violation of this chapter or section 282.34 or to
19 prevent, restrain, or remedy such violation.

20 3. If successful in obtaining injunctive relief
21 under this section, the petitioner shall be awarded
22 reasonable attorney fees and court costs. Multiple
23 petitioners may join in a single action under this
24 section.

25 Sec. 10. NEW SECTION. 237C.10 Notice and hearings
26 — judicial review.

27 The procedure governing notice and hearing to deny
28 an application or suspend or revoke a certificate of
29 approval shall be in accordance with rules adopted by
30 the department.

31 Sec. 11. NEW SECTION. 282.34 Educational programs
32 for children's residential facilities.

33 1. A children's residential facility operating
34 under a certificate of approval issued under chapter
35 237C shall do all of the following:

1 *a.* Provide an educational program and appropriate
2 education services to children residing in the
3 children's residential facility by contracting with the
4 school district in which the children's residential
5 facility is located, contracting with an accredited
6 nonpublic school, or becoming accredited as a nonpublic
7 school through the standards and accreditation process
8 described in section 256.11 and adopted by rule by the
9 state board of education.

10 *b.* Display prominently in all of its major
11 publications and on its internet site a notice
12 accurately describing the educational program and
13 educational services provided by the children's
14 residential facility.

15 *c.* Include in any promotional, advertising,
16 or marketing materials regarding the children's
17 residential facility available in print, broadcast, or
18 via the internet or by any other means all fees charged
19 by the children's residential facility for the services
20 offered or provided by the children's residential
21 facility and its refund policy for the return of
22 refundable portions of any fees.

23 2. The state board of education may adopt by rule
24 pursuant to chapter 17A standards for the following:

25 *a.* Educational programs and appropriate educational
26 services provided under this section.

27 *b.* Contracts between children's residential
28 facilities and school districts or accredited nonpublic
29 schools.

30 *c.* Notices displayed in accordance with subsection
31 1, paragraph "b".

32 3. A contract that fails to comply with any of the
33 requirements of subsection 1, or with standards adopted
34 by the state board of education under subsection 2, is
35 void.

1 Sec. 12. REPEAL. Chapter 237B, Code 2016, is
2 repealed.

3 Sec. 13. REPORT REQUIREMENT. By January 1, 2017,
4 the department of human services, the department of
5 education, the department of public health, and the
6 state fire marshal shall each submit a report to the
7 general assembly concerning their progress in adopting
8 rules as appropriate under sections 237C.4 and 282.34,
9 as enacted by this Act.>

10 2. Title page, line 1, by striking <and licensure
11 for certain> and inserting <for and certification and
12 inspection of>

13 3. Title page, line 2, by striking <centers> and
14 inserting <residential facilities>

HERMAN C. QUIRMBACH